

FILED

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

MAR 11 2016

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

CORNELIUS BROWN,

Petitioner - Appellant,

v.

DWIGHT NEVEN, Warden and  
ATTORNEY GENERAL OF THE STATE  
OF NEVADA,

Respondents - Appellees.

No. 16-15279

D.C. No. 2:12-cv-00922-APG-GWF  
District of Nevada,  
Las Vegas

ORDER

Before: M. SMITH and CHRISTEN, Circuit Judges.

The district court's judgment was entered on August 31, 2015. Appellant's request for a certificate of appealability, docketed and processed by the district court as a notice of appeal, was deposited for mailing on January 31, 2016.

Accordingly, the notice of appeal was not filed within 30 days of entry of judgment. *See* 28 U.S.C. § 2107(a); Fed. R. App. P. 4(a)(1) & (c).

Even if the court liberally construes appellant's motion for appointment of counsel (deposited for mailing on October 24, 2015) as the functional equivalent of a notice of appeal, the notice of appeal is still too late. *See* 28 U.S.C. § 2107(a); Fed. R. App. P. 4(a)(1) & (c).

The request for a certificate of appealability is denied because the notice of appeal was not timely filed. *See* 28 U.S.C. §§ 2107, 2253(c)(2).

Any pending motions are denied as moot.

**DENIED.**